

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CHARLES J. LEVERT, II, as) CASE NO. 1:21-cv-02312
Personal Representative of the)
Estate of Charles J. Levert, Sr.,) JUDGE DAVID A. RUIZ

Plaintiff,)

v.)

MONTEFIORE HOME, *et al.*,)

Defendants.)

ORDER OF AUTOMATIC STAY

Plaintiff brought this wrongful death and survivorship action in the Cuyahoga County Court of Common Pleas against Defendants in connection with the death of Charles J. Levert, Sr. Defendants removed the action to federal court on federal question jurisdiction and federal officer removal. (R. 1). On September 30, 2022, Plaintiff's motion to remand this action to state court was granted. (R. 23). Defendants now request a 30-day automatic stay of the enforcement of the Court's remand order to provide them an opportunity to file a notice of appeal, as well as a permanent stay pending appeal. (R. 25).

Federal Rule of Civil Procedure Rule 62(a) provides that "execution on a judgment and proceedings to enforce it are stayed for 30 days after its entry, unless the court orders otherwise."

Under Federal Rule of Civil Procedure Rule 54(a), a “judgment” is defined as “a decree and any order from which an appeal lies.” Fed. R. Civ. P. 54(a). Under 28 U.S.C. § 1447(d), an order remanding a case removed pursuant to § 1442, the federal officer removal statute, or § 1443 may be reviewed.

Accordingly, the Court STAYS enforcement of its order of remand (R. 23), RECALLS the papers delivered to the state court on remand, and ADMINISTRATIVELY CLOSES this case pending appeal or until November 3, 2022 if Defendants do not appeal.

IT IS SO ORDERED.

s/ David A. Ruiz
David A. Ruiz
United States District Judge

Date: October 5, 2022